THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.30 OF 2006

DATED:3.1.2006

Between:

Putli Bee

…Petitioner

And

Assistant City Planner,

Circle No.5, Municipal Corporation of Hyderabad

Khairatabad, Hyderabad

and another

…Respondents

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WRIT PETITION NO.30 OF 2006

ORDER:

The petitioner is owner of premises bearing No.8-3-229/A/8, situated at Yousufguda, Hyderabad. The respondent Corporation issued a notice dt.22.8.2005 requesting the petitioner to give consent in relation to 224.30 Sq.yards of her land, which is affected under the proposed road widening from Yousufguda Checkpost to Rahmath Nagar Community Hall Junction. Pursuant to such notice it is alleged that the staff of respondent Corporation came to the area on 26.12.2005 and directed the petitioner to vacate the premises by 6.1.2006. The petitioner is not willing to give consent as sought for and therefore apprehending coercive steps, present Writ Petition is filed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for

Municipal Corporation of Hyderabad (MCH).

MCH sought consent of the owner for advance possession in larger public interest. It does not, however, mean that in the event of owner of the property not willing to give consent the respondent MCH would resort to high-handed action. In such case, the MCH has to necessarily resort to provisions of Section 147 of the Hyderabad Municipal Corporation Act, 1955 (for short, the Act). In **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** while dealing with similar matter, this Court made the following observations.

> A reading of the said letter does not in any way indicate that there is any truth in the submission made by the learned Counsel for the petitioners. What was sought to by issuing such letter is, a request was made to the landlords to give consent to handover advanced possession in the larger public interest. It was clearly informed that MCH will pay compensation to the effected structures as per the Rules and extent all benefits as per the Rules. If landlord desires to avail the benefits to be extended by the MCH on his own volition the landlord may give consent. If the landlord is not willing the letter nowhere compels one to part with the land for widening the road in which event as rightly contended by the learned Standing Counsel the MCH will have to resort to the provisions of the Land Acquisition Act.

Learned Standing Counsel for MCH submits that if the land owner is not agreed under private negotiations, land acquisition proposals will be taken up as per the Land Acquisition Act, 1894 (LA Act). Therefore, the Writ Petition is misconceived. If the petitioner is not given her consent, it is always open to HMC to initiate action under Section 147 of the Act and acquire the property of the petitioner. In this case, the petitioner has allegedly not given her willingness/consent to cooperate with the MCH for the road widening project. Needless to mention that Corporation has to initiate action under the provisions of LA Act. Till then, the petitioner cannot be deprived of her right to enjoy the property, nor the MCH can demolish the structures for the purpose of road widening.

The Writ Petition with the above observations is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

3.1.2006

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Note: Issue CC in one week.

(B.O)

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